

REMARKS

Page 4 of the Office Action indicates that Claims 1 - 29 stand withdrawn as being drawn to a nonelected invention. Applicants in their November 28, 2005 Office Action response elected with traverse to proceed with the prosecution of Claims 30 - 50. Please cancel Claims 30 - 35, 37 - 42, and 45 - 48 without prejudice. These claims are being cancelled without prejudice so that the present application may be allowed. It is expressly not conceded that the rejection of these claims is proper. Applicants may elect to continue the prosecution of these claims in a continuing application.

35 U.S.C. §102 Rejections

Claims 30 - 32, 35, and 37 - 42 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. 5,219,371 issued to Shim et al. ("Shim") for the reasons of record stated on pages 5 and 6 of the Office Action. This rejection is now moot as Claims 30 - 32, 35, and 37 - 42 have been cancelled herewith without prejudice. Hence, Applicants respectfully request that the 35 U.S.C. §102(b) rejection over these claims be withdrawn.

35 U.S.C. § 103 Rejections

Claims 33 - 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shim in view of U.S. 6,474,563 issued to Pletcher et al. ("Pletcher") for the reasons of record stated on page 7 of the Office Action. Claims 45 - 48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shim in view of U.S. 5,301,379 issued to Schaal ("Schaal") for the reasons of record stated on pages 7 and 9 of the Office Action. These rejections are now moot as Claims 33 - 34 and 45 - 48 have been cancelled herewith without prejudice. Hence, Applicants respectfully request that the 35 U.S.C. §103(a) rejection over these claims be withdrawn.

Double Patenting

Pages 8 and 9 of the Office Action indicate that Claims 30, 33 - 34, 36 - 37, and 49 have been provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over Claims 27, 29, and 38 - 39 of copending U.S. Application No. 10/418,595. The Office Action indicates that a Terminal Disclaimer may be used to overcome the provisional rejection of these claims. This rejection is moot as far as it applies to Claims 30, 33 - 34, and 37 as these claims have been cancelled herewith without prejudice.

With regard to the double patenting rejection of Claims 36 and 49, the submission of a Terminal Disclaimer would appear to be premature at this stage of prosecution as the conflicting claims have not in fact been patented. Once patentable claims are agreed to, an appropriate Terminal Disclaimer can be provided, if still deemed necessary.

Allowable Subject Matter

Page 8 of the Office Action indicates that Claims 36, 43 - 44, and 49 - 50 are allowable. Applicants have amended Claims 36, 43 - 44 and 49 - 50 so as to place each in independent form. It is now believed that these claims are in condition for allowance.

SUMMARY

Claims 1 - 29 stand withdrawn as being drawn to a nonelected invention. Claims 30 - 35, 37 - 42, and 45 - 48 are cancelled herewith without prejudice. It is believed that Claims 36, 43 - 44, and 49 - 50 are now in condition for allowance. Applicants respectfully request that a Notice of Allowance be issued for these claims.

Respectfully submitted,
FOR: BARON ET AL.;

BY: 

Julia A. Glazer
Attorney for Applicants
Registration No. 41,783
(513) 627-4132

April 17, 2006
Cincinnati, Ohio